

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**ACTIVISION TV, INC.,**

**Plaintiff,**

**v.**

**PINNACLE BANCORP, INC.,**

**and**

**JON BRUNING, Attorney General of  
Nebraska (in his official capacity);  
DAVID D. COOKSON, Chief Deputy  
Attorney General of Nebraska (in his  
official capacity); DAVID A. LOPEZ,  
Assistant Attorney General of  
Nebraska (in his official capacity),**

**Defendants.**

**Case No. 8:13CV00215**

**MOTION TO DISMISS  
PURSUANT TO  
FED. R. CIV. P. 12(b)(1) OR 12(b)(6)**

COME NOW Defendants Jon Bruning, David D. Cookson, and David A. Lopez and move this Court for an order dismissing Plaintiff's First Amended Complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) or 12(b)(6) for the reasons that Plaintiff lacks standing to assert its claims and because said complaint fails to state a claim upon which relief can be granted.

Submitted this 10th day of September, 2013.

**JON BRUNING, DAVID D. COOKSON,  
DAVID A. LOPEZ, Defendants.**

By: JON BRUNING, NE #20351  
*Attorney General of Nebraska*

By: s/ Dale A. Comer  
Dale A. Comer, NE #15365  
*Assistant Attorney General*

Katherine J. Spohn, NE #22979  
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Attorneys for Defendants Jon Bruning,  
David D. Cookson, and David A. Lopez.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 10, 2013, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Nebraska, using the CM/ECF system, causing notice of such filing to be served upon all parties' counsel of record.

By: s/ Dale A. Comer  
Assistant Attorney General